IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.384 OF 2005
IN
APPEAL FROM ORDER NO. 368 OF 2005

M/s.Shraddha Enterprises. ... Applicant.
Versus.
Smt.Jyoti w/o.Haresh Bhavsar. ... Respondent.

Shri A.Y.Sakhare with Shri Anil Singh and Shri D.R.Shah
for the Applicant.

Shri A.M.Saraogi for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 3rd May, 2005.

P.C.:

1. Rule. The Respondents waive service. Considering the prima-facie finding recorded by the trial Court regarding receipt of a sum of Rs.6 lakhs by the Respondent from the Appellants and execution of declaration by the Respondents in favour of the Appellant. Case for appointment of the Court Receiver is made out. Considering the facts and circumstances of the case the Receiver will have to be appointed as agent of the Receiver and the amount of royalty is fixed at Rs.3500/- per month. The Respondent will be liable to pay Receiver's charges.

2. Civil Application is disposed of by the following order:

(i) Till final disposal of the Appeal the Court Receiver, High Court, Bombay is appointed as Receiver in respect of the suit premises described in prayer clause (c) of this Application. The Receiver will appoint the Respondent as his Agent.

(ii) The royalty amount is fixed at Rs.35000/- per month. Over and above the royalty amount, the Respondent will be liable to pay costs and charges of the Court Receiver. The Respondent shall execute necessary agency agreement.

(iii) The pendency of this Appeal will not operate as stay of the suit and the learned trial Judge will proceed with the hearing of the suit in accordance with the law.

Judge.